

STATE OF MICHIGAN
COURT OF APPEALS

CATHERINE MORTIERE,

Plaintiff-Appellant,

v

CITY OF DETROIT and DETROIT POLICEMEN
& FIREMEN RETIREMENT SYSTEM,

Defendants-Appellees.

UNPUBLISHED

August 16, 2005

No. 261100

Wayne Circuit Court

LC No. 03-318535-CZ

Before: Zahra, P.J., and Cavanagh and Owens, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order granting defendant Retirement System's motion for summary disposition and dismissing the complaint. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review the trial court's ruling on a motion for summary disposition de novo on appeal. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

The trial court granted the Retirement System's motion for summary disposition on two grounds: plaintiff had failed to exhaust her administrative remedies under the collective bargaining agreement, and that plaintiff's claims were barred by the doctrine of collateral estoppel. Plaintiff challenges the trial court's ruling in part on the ground that the defenses cited by the trial court had been waived because they were not raised in defendant's answer to the complaint. Assuming without deciding that plaintiff is correct with respect to the defense of failure to exhaust administrative remedies, *Mollett v Taylor*, 197 Mich App 328, 332; 494 NW2d 832 (1992); MCR 2.111(F)(2)(a), (3); MCR 2.116(D)(2), we conclude that the error was harmless.

The trial court did not err in considering the defense of collateral estoppel because defendant raised the defense in its first amended answer to the complaint. Plaintiff has not argued that her claims were not barred if the defense was applicable. Because plaintiff has failed to address an issue which must necessarily be reached to reverse the trial court, she is not entitled to relief. *Sargent v Browning-Ferris Indus*, 167 Mich App 29, 37; 421 NW2d 563 (1998); *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987).

Affirmed.

/s/ Brian K. Zahra

/s/ Mark J. Cavanagh

/s/ Donald S. Owens